

Abstract

Conditional discontinuance of criminal prosecution is a method for alternative dispute resolution of criminal cases, also labelled “diversions” by the professional public. It is a criminal procedural measure allowed to be used for case settlement by the court and at the pre-trial stage by the public prosecutor on conditions laid down in the Criminal Code. If the accused committed minor offence and afterwards pleaded guilty; compensated for damages; returned unjust enrichment, or concluded a contract to compensate for damages or to return the unjust enrichment; or he has taken other necessary measures to do so, the determining authority can – with consideration of the accused’s character – thereafter decide to conditionally discontinue criminal prosecution. If the accused has committed a serious offense, the public prosecutor or the court may take such decision only if the accused fulfills additional and stricter condition. That is, a probationary period must be determined in the resolution phase, obligating the accused to behave in an orderly way for its duration. If this condition is met, the determining authority will rule that the accused proved himself and then subsequently discontinue criminal prosecution. Otherwise, prosecution will continue, which can potentially lead to indictment and conviction. However, in practice, this affects minimum number of cases.

Conditional discontinuance of criminal prosecution is an institute serving the purpose of restorative justice, which focused on rehabilitating rather than punishing the perpetrator, while largely pursuing the interests of injured party. In addition to these aforementioned benefits, the legislator intended to disburden the justice authorities and decrease the overall workload of authorities on criminal proceedings by allowing for less serious offences to be settled in a faster and easier manner. And because conditional discontinuance of criminal prosecution became the most frequently used diversion in the Czech Republic, this goal was highly achieved to a large degree. In practice, its use is most common for following offences: (grievous) bodily harm from negligence, jeopardy under the influence of addictive substance and hooliganism.

This master thesis is structured into five sections excluding Introduction and Conclusion. In the first part, the restorative justice and alternative dispute resolution of criminal cases are defined. The core of the work is the second part, dedicated to the current state of legislation and related case law. The third part is focused on comparison of the most similar types of diversions and the Dutch diversions legislation. In the third part statistical

data concerning the use of conditional discontinuance in practice is analyzed. Finally, in the last part, the legal aspects *de lege ferenda* are discussed.